

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2003-021197

03/30/2004

HONORABLE BERNARD J. DOUGHERTY

CLERK OF THE COURT
L. Rasmussen
Deputy

FILED: 03/31/2004

ROY R WATROUS

ROY R WATROUS
#A947401
225 W MADISON
PHOENIX AZ 85003

v.

ARIZONA STATE, et al.

WANDA E HOFMANN

SUSAN L HABLE
URSULA H GORDWIN
COMM. WOTRUBA
JUDGE DOUGHERTY

RULING

This court was reassigned this matter by the Presiding Judge. This court is a retired Superior Court Judge and sits as a retired Superior Court Judge on cases, civil and criminal, on an as-needed basis and by authority of the Presiding Judge of the Superior Court.

The court has reviewed the entire file and has considered Defendants Wotruba and Arizona Department of Corrections' Motion to Dismiss. No response has been filed.

Based upon a consideration of Defendants Wotruba and D.O.C.'s motion, with attachments, this motion is granted. This court grants the Motion to Dismiss based upon the plaintiff's failure to comply with the Notice of Claim Statute, ARS 12-821.01(A); the one-year statute-of-limitation arguments, as recited in the motion; the naming of the D.O.C. as an improper party under the statute; and by a consideration of the absolute judicial immunity enjoyed by Defendant Wotruba.

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Counsel for Defendants Wotruba and D.O.C. is directed to submit a formal order for the court's consideration consistent with the above to Judge Campbell's Judicial Assistant, Sheryll Prokop, within ten days of the receipt of this minute entry.

The court has also considered Defendant Romley's Rule 12(b)(6) Motion to Dismiss. No response has been filed.

Based upon a consideration of Defendant Romley's Motion and memorandum of points and authorities, Defendant Romley's Motion to Dismiss is granted based on a failure by plaintiff to state a claim upon which relief can be granted and by this court's consideration of the absolute prosecutorial immunity enjoyed by a prosecutor. The court further finds no allegation of malicious prosecution by plaintiff against Defendant Romley.

Counsel for Defendant Romley is directed to submit a formal order for the court's consideration consistent with the above to Judge Campbell's Judicial Assistant, Sheryll Prokop, within ten days of the receipt of this minute entry.